EQUITY—UNFAIR COMPETITION—"MUTT AND JEFF" PROTECTED FROM "PIRACY."—Complainant was the originator of a "comic strip" popularly known as the "Mutt and Jeff" cartoons. These cartoons were copyrighted in the complainant's name and published in the *San Francisco Examiner.* Later the complainant continued the series under contract with the defendant, publisher of the *New York American.* At the expiration of this contract the complainant agreed to continue the series for a syndicate and the defendant prepared to imitate the "Mutt and Jeff" strip in a manner likely to deceive the public into thinking the cartoons were the complainant's. In a suit to restrain this imitation, *held,* defendant enjoined from use of words "Mutt" or "Jeff" and from publishing cartoons so like complainant's as to deceive. *Fisher* v. *Star Co.* (N. Y., 1921), 132 N. E. 133.

The decision is based squarely upon the jurisdiction of courts of equity to restrain unfair competition, no reliance being placed either upon copyright law or trade-mark law. The great majority of cases have had to do with unfair competition in the manufacture and sale of goods. The leading authority for the protection of intangible property from unfair competition is *International News Service* v. *Associated Press,* 248 U. S. 215, in which the defendant was enjoined from "pirating" news gathered by complainant and passing it off as its own in competition with the complainant. This case has been said by some to stand for the broad proposition that no one shall be permitted to appropriate to himself the fruits of another's labor. 32 HARV. L. REV. 566. However valuable as an ethical concept, such a sweeping proposition is hardly maintainable as a matter of law. 13 ILL. L. REV. 708; 18 MICH. L. REV. 415; *Bristol* v. *Equitable Assurance Society,* 132 N. Y. 264. In the instant case the court, with admirable discretion, refrained from laying down any broad doctrine, preferring to decide each case on its particular set of facts. The threatened imitation was found to be essentially unfair to the complainant, and no good would accrue to the public from refusing the injunction. It is to be noted that the instant case differs from the *Associated Press case* in that here there is the typical "passing off" element, the defendant passing off its own work as the complainant's, whereas in the *Associated Press* case defendant was publishing complainant's news as its own. See 51 NAT. CORP. REP. 242 for comment on previous litigation between the parties in the instant case.

EVIDENCE—TRIALS—WHEN A COURT MAY DIRECT A VERDICT.—In a suit for violating an agency contract, the defendant attempted to prove that the provision in question had been orally waived or annulled. The evidence of the existence of the provision was so preponderant that no other conclusion was reasonably admissible. *Held,* the court erred in refusing to instruct the jury to return a verdict for the plaintiff. *Agricultural Ins. Co.* v. *Higginbotham* (1921), 274 Fed. 316.

At one time there was a rule to the effect that a mere scintilla of evidence was sufficient to require a determination by the jury, but this has been abandoned by most courts, the federal and various state courts holding that the test for direction of a verdict by the judge is the same as on a motion